

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re

Chapter 11

KOLLEL MATEH EFRAIM, LLC, a/k/a  
MATEH EPHRAIM LLC, a/k/a  
KOLEL MATEH EFRAIM

Case No. 04-16410 (SMB)

Debtor.

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**APPELLANT'S DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON  
APPEAL AND STATEMENT OF ISSUES FOR APPEAL**

Kollel Match Efraim, a/k/a Match Ephraim LLC, a/k/a Kolel Match Efraim  
("Debtor" or "Appellant"), pursuant to Federal Rule of Bankruptcy Procedure 8006, for its  
designation of items to be included in the record and statement of the issues for appeal, states as  
follows:

**DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD**

<b>Exhibit Number</b>	<b>ECF Docket Number</b>	<b>Description</b>
1	54	Transcript of Hearing held on July 20, 2005
2	25	Helen-May Holdings, LLC's ("HMH") Motion to Convert or Dismiss
3	26	Debtor's Objection to HMH's Motion to Convert or Dismiss
4	27	Debtor's Chapter 11 Plan of Reorganization
5	28	Debtor's Disclosure Statement
6	29	Debtor's Motion to Shorten Time and to Consolidate Confirmation Hearing with Disclosure Statement Hearing
7	33	HMH's Reply to Debtor's Objections to Motion to Convert or Dismiss

8	34	Affidavit of Gerald Orseck in further support of HMM's Motion to Convert or Dismiss
9	35	Scheduling Order
10	36	HMM's Objection to Debtor's Disclosure Statement
11	45	HMM's Motion for Relief from Stay and for Use and Occupancy
12	50	Debtor's Objection to Motion for Relief from Automatic Stay and Related Relief
13	67	Transcript of Hearing/Trial held on December 5, 2005
14	68	HMM's Notice Of Settlement of Order re 12/5/05 Hearing
15	69	Order, signed 3/28/06 re 12/5/05 Hearing
16	102	HMM's Notice of Settlement of Order Granting Adequate Protection re 7/20/05 Hearing
17	103	HMM's Letter to Judge Bernstein re Notice of Settlement of Order Granting Adequate Protection re 7/20/05 Hearing
18	104	Debtor's Designation of Contents and all attachments, re Appeal from Court's Order Denying Motion to Enforce Terms of Settlement, signed March 6, 2007
19	107	Debtor's Objection to HMM's Notice of Presentment of Proposed Order regarding Adequate Protection
20	109	HMM's Response to Debtor's Objection to HMM's Notice of Presentment of Proposed Order regarding Adequate Protection
21	112	HMM's Notice of Settlement of Order re Adequate Protection
22	116	Debtor's Objection to HMM's Notice of Presentment of Proposed Order regarding Adequate Protection
23	118	HMM's Response to Debtor's Objection to HMM's Notice of Presentment of Proposed Order regarding Adequate Protection
24	119	Order signed on 4/25/07 regarding Adequate Protection
25	121	Notice of Appeal from Court's Order regarding Adequate Protection, signed 4/25/07
26	123	Stipulation extending Time of Debtor/Appellant to file Designation of Record to May 29, 2007
27	124	So Ordered Stipulation and Order signed 5/14/07, extending Time of Debtor/Appellant to file Designation of Record to May 29, 2007

28	131	Debtor's Designation of Contents and all attachments, re Appeal from Court's Order Awarding Adequate Protection
29	134	HMH's Notice of Presentment of Proposed Order and Judgment
30	139	Debtor's Objection to HMH's Notice of Settlement of Proposed Judgment and Order
31	141	HMH's Response to Debtor's Objection to HMH's Notice of Presentment of Proposed Order
32	142	Debtor's Response to HMH's Reply in further support of Notice of Settlement of Proposed Judgment and Order
33	143	HMH's Response to Debtor's Response re Notice of Settlement of Proposed Order and Judgment
34	147	HMH's Second Notice of Presentment and Proposed Order
35	148	HMH's Letter to Judge Bernstein regarding Notice of Presentment of Proposed Order and Judgment
36	149	HMH's Amended Letter to Judge Bernstein regarding Notice of Presentment of Proposed Order and Judgment
37	150	Debtor's Objection to HMH's Second Notice of Presentment of Proposed Order and Judgment
38	153	HMH's Response to Debtor's Objection to HMH's Notice of Proposed Order and Judgment
39	154	HMH's Amended Notice of Presentment and Proposed Order
40	158	Debtor's Response to HMH's Response in further support of Amended Notice of Presentment of Proposed Order and Judgment
41	160	Memorandum Endorsement and Order, signed 7/11/07 Rejecting Proposed Judgment
42	165	HMH's Motion to Reconsider
43	169	HMH's Letter to Judge Bernstein re Motion to Reconsdier
44	170	Debtor's Objection to HMH's Motion to Reconsider and enter Second Amended Proposed Judgment
45	172	HMH's Response to Debtor's Objection to HMH's Motion to Reconsider
46	177	HMH's Notice of Presentment

47	179	Debtor's Objection to HMH's Notice of Presentment of Proposed Order and Judgment
48	181	HMH's Response to Debtor's Objection to HMH's Notice of Presentment of Proposed Order and Judgment
49	184	Debtor's Response to HMH's Reply in further support of Notice of Presentment of Proposed Judgment
50	186	Order and Judgment signed on 8/10/07
51	187	HMH's Letter to Judge Bernstein responding to Debtor
52	189	Notice of Appeal from Court's Order and Judgment regarding Adequate Protection

**STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

1. Whether the Bankruptcy Court erred in awarding HMH a judgment in the aggregate sum of \$245,779.00 in retroactive adequate protection payments as of July 1, 2005, since HMH should bear the risk for the unauthorized conduct of its counsel, Gerald Orseck, in entering into the July 20, 2005 settlement on the record in open Court between HMH and the Debtor?

2. Whether the Bankruptcy Court erred in awarding HMH monthly adequate protection payments in the aggregate amount of \$13,553.00, since the Court's finding was predicated exclusively on the surprise testimony of Gene Barbanti at the July 20, 2005 hearing which deprived the Debtor of its due process?

The Appellant reserves the right to modify, restate and/or supplement the foregoing designation of items and statement of issues to the fullest extent permitted by the Bankruptcy Code and Rules.

Dated: New York, New York  
August 30, 2007

**BACKENROTH FRANKEL & KRINSKY LLP**

By: /s/ Scott Krinsky

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